

## **REMARKS**

Claims 1-37 and 50 are canceled. Claims 38-49 and 51-55 are pending. Claims 38, 40, 44, 51, 54 and 57 are amended.

### **Claim Objections**

Claims 40 and 44 are objected to for informalities. Corrections have been made in accordance with the examiner's suggestions.

### **Claim Rejections – 35 USC 112**

Claim 54, 57 and 58 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 54 and 57 have been amended to properly introduce the respective elements of "a brake pressure ratio" and "a brake pressure difference". Claim 58 depends from claim 57.

### **Claim Rejections – 35 USC 102**

Claims 38-41, 46, 48-52 and 56-58 are rejected under 35 USC 102(b) as being anticipated by Brachert *et al.* (US 5,934,769).

Claim 50 has been canceled thereby rendering its rejection moot.

Independent claim 38 has been amended to include a step of increasing the brake pressure in the wheel brake on the high coefficient of friction side in comparison with the brake pressure in the wheel brake on the low coefficient of friction side *based on the stability index exceeding a predetermined threshold value*.

Applicant respectfully submits that Brachert does not provide such a step and therefore does not anticipate amended claim 38. As best understood, Brachert only

controls the high wheel brake pressure when switch S is closed, i.e. only when ABS is active. Such operation is different than increasing the brake pressure on the high coefficient of friction side *based on the stability index exceeding a predetermined threshold value*. Applicant therefore respectfully submits that Brachert does not anticipate amended claim 38 and that claim 38 is in a condition for allowance.

Claims 39-41, 46, 48-49, 51-52 and 56-58 depend either directly or indirectly from claim 38 and are believed to be in a condition for allowance for at least the same reason as claim 38.

Claims 38-43, 45 and 49 are rejected under 35 USC 102(b) as being anticipated by Heinemann (US 2003/0111899).

Independent claim 38 has been amended to include a step of increasing the brake pressure in the wheel brake on the high coefficient of friction side in comparison with the brake pressure in the wheel brake on the low coefficient of friction side *based on the stability index exceeding a predetermined threshold value*.

Applicant respectfully submits that Heinemann does not provide such a step and therefore does not anticipate amended claim 38. As best understood, Heinemann only controls the high wheel brake pressure when the yaw *acceleration* exceeds a predetermined threshold. Paragraphs 15-17 and 45-46. Such operation is different than increasing the brake pressure on the high coefficient of friction side *based on the stability index exceeding a predetermined threshold value*. Applicant therefore respectfully submits that Heinemann does not anticipate amended claim 38 and that claim 38 is in a condition for allowance.

Claims 39-43, 45 and 49 depend either directly or indirectly from claim 38 and are believed to be in a condition for allowance for at least the same reason as claim 38.

Claims 38, 39, 46, 49-54 are rejected under 35 USC 102(b) as being anticipated by Barton *et al.* (US 6,968,920).

Claim 50 has been canceled thereby rendering its rejection moot.

Independent claim 38 has been amended to include a step of increasing the brake pressure in the wheel brake on the high coefficient of friction side in comparison with the brake pressure in the wheel brake on the low coefficient of friction side *based on the stability index exceeding a predetermined threshold value*.

Applicant respectfully submits that Barton does not provide such a step and therefore does not anticipate amended claim 38. As best understood, Barton describes a system that changes steering wheel torque in an attempt to persuade the driver reduce the vehicle yaw rate. Barton does not appear to increase the brake pressure on the high coefficient of friction side *based on the stability index exceeding a predetermined threshold value*. Instead, Barton appears to change the steering wheel torque based on the stability index. Applicant therefore respectfully submits that Brachert does not anticipate amended claim 38 and that claim 38 is in a condition for allowance.

Claims 39, 46, 49, and 51-54 depend either directly or indirectly from claim 38 and are believed to be in a condition for allowance for at least the same reason as claim 38.

### **Claim Rejections – 35 USC 103**

Claims 44 and 47 are rejected under 35 USC 103(a) as being unpatentable over Heinemann in view of Bedner *et al.* (2002/0198646).

Applicant respectfully submits that the cited combination of references does not provide all of the elements and therefore does not provide a *prima facie* case of obviousness.

Claims 44 and 47 depend either directly or indirectly from amended claim 38. As stated above in response to the 35 USC 102 rejections, Heinemann suffers shortcomings as a reference with regard to independent claim 38. Applicant respectfully submits that Bedner does not make up for Heinemann's shortcomings as a reference.

Since the combination of references does not provide all of the elements of

claims 44 and 47 applicant must respectfully submit that claims 44 and 47 are in a condition for allowance.

Claim 47 is rejected under 35 USC 103(a) as being unpatentable over Brachert or Barton in view of Bedner.

Applicant respectfully submits that the cited combination of references does not provide all of the elements and therefore does not provide a *prima facie* case of obviousness.

Claim 47 depends either directly or indirectly from amended claim 38. As stated above in response to the 35 USC 102 rejections, Brachert and Barton suffer shortcomings as references with regard to independent claim 38. Applicant respectfully submits that Bedner does not make up for Brachert and Barton's shortcomings as references.

Since the combination of references does not provide all of the elements of claim 47 applicant must respectfully submit that claim 47 is in a condition for allowance.

## **CONCLUSION**

Accordingly, Applicant believes that the claims as amended overcome the raised objections and rejections and are in a condition for allowance.

Respectfully submitted,

/Edwin W. Bacon, Jr./

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